

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

ALEX PENLAND,

Plaintiff,

v.

JOSEPH T. DETERS, et al.,

Defendants.

Case No. 1:13-cv-20

Weber, J.  
Bowman, M.J.

**REPORT AND RECOMMENDATION**

Plaintiff initiated this civil rights suit *pro se*, while incarcerated at the Pickaway Correctional Institution in Orient, Ohio.<sup>1</sup> On April 24, 2013, the undersigned reviewed Plaintiff's seventeen causes of action against five named Defendants under the screening standards of 28 U.S.C. §§1915(e) and 1915A. Following review, the undersigned recommended dismissal of the claims asserted in causes of action 2, 3, 6 and 8, of all claims against Defendants Deters and Rinehart in their individual capacities, and of claims asserting criminal assault. The Court directed summons to issue for the remaining state and federal claims relating to the identification of Plaintiff as an informant. (Doc.14). That Report and Recommendation was adopted by the presiding District Judge on June 4, 2013. (Doc. 21).

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<sup>1</sup>Plaintiff notified the court of a change of address, reflecting a non-institutional address, on August 8, 2013. (Doc. 30).

Following completion of discovery, on February 26, 2014, the Defendants moved for summary judgment on all claims.<sup>2</sup> (Doc. 32). When Plaintiff failed to file any timely response, he was directed to “show cause” why Defendants’ motion should not be construed as unopposed and granted for the reasons stated. The deadline by which Plaintiff has directed to respond to the “show cause” order has now elapsed, with no response having been received.

## **II. Analysis**

Pursuant to Rule 56(a), Fed. R. Civ. P., summary judgment “shall” be granted if the movant demonstrates that “there is no genuine issue as to any material fact, and the movant is entitled to judgment as a matter of law.” The undersigned has reviewed Defendants’ motion in its entirety, together with the forty pages of exhibits offered in support of that motion. The motion is unopposed. Based upon the record before the undersigned, all remaining Defendants are entitled to summary judgment on all of Plaintiff’s remaining claims.

## **III. Conclusion and Recommendation**

Accordingly, **IT IS RECOMMENDED THAT** Defendants’ motion for summary judgment (Doc. 32) be **GRANTED**, that judgment be entered in favor of Defendants on all claims, and that this case be dismissed.

/s/ Stephanie K. Bowman  
Stephanie K. Bowman  
United States Magistrate Judge

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<sup>2</sup>Defendants failed to file Proposed Findings of Fact as required by the civil trial procedures of both the undersigned magistrate judge and the presiding district judge. However, in light of the fact that the pending motion is well supported by record exhibits and is otherwise unopposed, this procedural lapse is of no import.

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**NOTICE**

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to this Report and Recommendation (“R&R”) within **FOURTEEN (14) DAYS** of the filing date of this R&R. That period may be extended further by the Court on timely motion by either side for an extension of time. All objections shall specify the portion(s) of the R&R objected to, and shall be accompanied by a memorandum of law in support of the objections. A party shall respond to an opponent’s objections within **FOURTEEN (14) DAYS** after being served with a copy of those objections. Failure to make objections in accordance with this procedure may forfeit rights on appeal. See *Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).